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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,121	01/20/2004	Takami Ito	480213.401	3954

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EXAMINER

VALENTI, ANDREA M

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 09/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/762,121

Applicant(s)

ITO, TAKAMI

Examiner

Andrea M. Valenti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Priority

Applicant is advised of possible benefits under 35 U.S.C. 119(a)-(d), wherein an application for patent filed in the United States may be entitled to the benefit of the filing date of a prior application filed in a foreign country.

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan on 10 March 2003. It is noted, however, that applicant has not filed a certified copy of the Japanese application as required by 35 U.S.C. 119(b). Applicant must also reference priority to the Japanese Patent at the beginning of the specification.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, and 4-8 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,597,221 to Adair et al.

Regarding Claim 1, Adair et al teaches a flower ornamental assembly for accommodating a flowerpot planting flowers or directly planting flowers with a support post (Adair Fig. 2 #3) having a lower part buried in the ground or fixed to the ground with a fixing device so as to be erected upward; a flower ornament pot (Adair Fig. 2 #5) having at the upper end an opening for accommodating the

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flowerpot and having at the lower end a through-hole (Adair Fig. 2 #8) through which the support post is inserted and a tilt preventive member (Adair Fig. 2 #4) placed in the flower ornament pot around the support post in a situation that the support post is inserted through the through-hole of the flower ornament pot, for cooperating with support post to erect and support the flower ornament pot.

Regarding Claim 2, Adair teaches the tilt preventive member is a filler filling a surrounding of the support post inside the flower ornament pot (Adair abstract last 2 lines).

Regarding Claim 4, Adair teaches a height adjustment piece interposed between the flower pot ornament pot and the ground for adjusting a height position of the flower pot (Adair Fig. 1 #2)

Regarding Claim 5, Adair teaches a pedestal integrally fitted to the lower end of the flower ornament pot wherein the pedestal has a hollow space communicating with the through hole of the flower pot for inserting the support post (Adair Fig. 2 #6)

Regarding Claims 6 and 8, Adair teaches a flower ornamental assembly a support post (Adair Fig. 2 #3) having a lower part buried in the ground or fixed to the ground with a fixing device so as to be erected upward; and a flower ornament pot (Adair Fig. 2 #5) having at the upper end an opening for accommodating the flowerpot and having at the lower end a through-hole (Adair Fig. 2 #8) through which the support post is inserted, wherein the flower ornament pot has a hollow tubular (Adair Fig. 2 #4) part integrally erected upward

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from the through-hole and the flower ornament pot is erected and supported with the support post inserted in the tubular part.

Regarding Claim 7, Adair teaches that plants are planted in the planter and inherently teaches a filler filling a surrounding of the hollow tubular part (i.e. soil) (Adair abstract last 2 lines).

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,635,394 to Brown.

Regarding Claim 1, Brown teaches a flower ornamental assembly for accommodating a flowerpot planting flowers or directly planting flowers with a support post (Brown Fig. 1 #30) having a lower part buried in the ground or fixed to the ground with a fixing device so as to be erected upward; a flower ornament pot (Brown Fig. 1 #12) having at the upper end an opening for accommodating the flowerpot and having at the lower end a through-hole (Brown Fig. 1) through which the support post is inserted and a tilt preventive member (Brown Fig. 1 #14) placed in the flower ornament pot around the support post in a situation that the support post is inserted through the through-hole of the flower ornament pot, for cooperating with support post to erect and support the flower ornament pot.

Regarding Claim 2, Brown inherently teaches the tilt preventive member is a filler filling a surrounding of the support post inside the flower ornament pot (Brown teaches plants are planted in soil).

Regarding Claim 3, Brown teaches the tilt preventive member includes a block body (Brown Fig. 1 #20) having a through-hole for penetrating the support

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post in the vertical direction placed around the support post inside the flower ornament pot, and defining the inclination of the flower ornament pot within a specified range; and a buffer member filling a space between the block body, the flower ornament pot, and the support post (Brown inherently teaches the use of soil).

Regarding Claim 4, Brown teaches a height adjustment piece (Brown Fig. 1 #28) interposed between the flower pot ornament pot and the ground for adjusting a height position of the flower pot.

Regarding Claim 5, Brown teaches a pedestal (Brown Fig. 1 #24) integrally fitted to the lower end of the flower ornament pot wherein the pedestal has a hollow space communicating with the through hole of the flower ornament pot for inserting the support post

Regarding Claims 6 and 8, Brown teaches a flower ornamental assembly a support post (Brown Fig. 1 #30) having a lower part buried in the ground or fixed to the ground with a fixing device so as to be erected upward; and a flower ornament pot (Brown fig. #12) having at the upper end an opening for accommodating the flowerpot and having at the lower end a through-hole through which the support post is inserted, wherein the flower ornament pot has a hollow tubular part (Brown Fig. 1 #14) integrally erected upward from the through-hole and the flower ornament pot is erected and supported with the support post inserted in the tubular part.

Regarding Claim 7, Brown teaches a filler filling a surrounding of the hollow tubular part (Brown inherently teaches the plants are planted in soil).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

German Patent DE 3906121; U.S. Patent No. 6,029,937; U.S. Patent No. 1,419,152; U.S. Patent No. 5,082,699; U.S. Patent No. 4,739,581; U.S. Patent No. 6,665,980; U.S. Patent No. 4,227,343; U.S. Patent No. 1,928,799; U.S. Patent No. 585,486; U.S. Patent No. 5,450,692; U.S. Patent No. 5,438,797; U.S. Patent No. 4,821,454; U.S. Patent No. 1,879,220; U.S. Patent No. 706,821; U.S. Patent No. 2,241,463; U.S. Patent No. 780,118.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 703-305-3010. The examiner can normally be reached on 7:30am-5pm M-F; Alternating Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Andrea M. Valenti
Patent Examiner
Art Unit 3643

30 August 2004



Peter M. Poon
Supervisory Patent Examiner
Technology Center 3600